



New Jersey Office of the Attorney General
Division of Consumer Affairs
Regulated Business Section
Contractors' Registration Statutes and Regulations

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CHAPTER 16

AN ACT concerning contractors engaged in home improvements and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.56:8-136 Short title.

1. This act shall be known and may be cited as the “Contractors’ Registration Act.”

C.56:8-137 Definitions relative to home improvement contractors.

2. As used in this act:

"Contractor" means a person engaged in the business of making or selling home improvements and includes a corporation, partnership, association and any other form of business organization or entity, and its officers, representatives, agents and employees.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Home improvement" means the remodeling, altering, renovating, repairing, restoring, modernizing, moving, demolishing, or otherwise improving or modifying of the whole or any part of any residential or non-commercial property. Home improvement shall also include insulation installation, and the conversion of existing commercial structures into residential or non-commercial property.

"Home improvement contract" means an oral or written agreement for the performance of a home improvement between a contractor and an owner, tenant or lessee, of a residential or noncommercial property, and includes all agreements under which the contractor is to perform labor or render services for home improvements, or furnish materials in connection therewith.

"Residential or non-commercial property" means any single or multi-unit structure used in whole or in part as a place of residence, and all structures appurtenant thereto, and any portion of the lot or site on which the structure is situated which is devoted to the residential use of the structure.

C.56:8-138 Registration for contractors; application, fee.

3. a. No person shall offer to perform, or engage, or attempt to engage in the business of making or selling home improvements unless registered with the Division of Consumer Affairs in accordance with the provisions of this act.

- b. Every contractor shall annually register with the director. Application for registration shall be on a form provided by the division and shall be accompanied by a reasonable fee, set by the director in an amount sufficient to defray the division’s expenses incurred in administering and enforcing this act.

- c. Every contractor required to register under this act shall file an amended registration within 20 days after any change in the information required to be included thereon. No fee shall be required for the filing of an amendment.

C.56:8-139 Act applicable to contractors who publicly advertise.

4. Except for persons exempted pursuant to section 5 of this act, any person who advertises in print or puts out any sign or card or other device after the effective date of this act which would indicate to the public that he is a contractor in New Jersey, or who causes his name or business name to be included in a classified advertisement or directory in New Jersey after the effective date of this act under a classification for home improvements covered by this act, is subject to the provisions of this act. This section shall not be construed to apply to simple residential alphabetical listings in standard telephone directories.

C.56:8-140 Inapplicability of act.

5. The provisions of this act shall not apply to:

- a. Any person required to register pursuant to “The New Home Warranty and Builders’ Registration Act,” P.L.1977, c.467 (C.46:3B-1 et seq.);

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b. Any person performing a home improvement upon a residential or non-commercial property he owns, or that is owned by a member of his family, a bona fide charity, or other non-profit organization;

c. Any person regulated by the State as an architect, professional engineer, landscape architect, land surveyor, electrical contractor, master plumber, or any other person in any other related profession requiring registration, certification, or licensure by the State, who is acting within the scope of practice of his profession;

d. Any person who is employed by a community association or cooperative corporation;

e. Any public utility as defined under R.S.48:2-13;

f. Any person licensed under the provisions of section 16 of P.L.1960, c.41 (C.17:16C-77); and

g. Any home improvement retailer with a net worth of more than \$50,000,000, or employee of that retailer.

C.56:8-141 Additional requirements; refusal to issue or suspend or revoke registration; grounds.

6. In addition to any other procedure, condition or information required by this act:

a. Every applicant shall file a disclosure statement with the director stating whether the applicant has been convicted of any crime, which for the purposes of this act shall mean a violation of any of the following provisions of the "New Jersey Code of Criminal Justice," Title 2C of the New Jersey Statutes, or the equivalent under the laws of any other jurisdiction:

(1) Any crime of the first degree;

(2) Any crime which is a second or third degree crime and is a violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes; or

(3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2, 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2, 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of 2C:17-2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-19, chapter 27 or 28 of Title 2C of the New Jersey Statutes, N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1 through 2C:37-4.

b. The director may refuse to issue or may suspend or revoke any registration issued by him upon proof that the applicant or holder of the registration:

(1) Has obtained a registration through fraud, deception or misrepresentation;

(2) Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

(3) Has engaged in gross negligence, gross malpractice or gross incompetence;

(4) Has engaged in repeated acts of negligence, malpractice or incompetence;

(5) Has engaged in professional or occupational misconduct as may be determined by the director;

(6) Has been convicted of any crime involving moral turpitude or any crime relating adversely to the activity regulated by this act. For the purpose of this subsection a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;

(7) Has had his authority to engage in the activity regulated by the director revoked or suspended by any other state, agency or authority for reasons consistent with this section;

(8) Has violated or failed to comply with the provisions of any act or regulation administered by the director;

(9) Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare.

c. An applicant whose registration is denied, suspended, or revoked pursuant to this section shall, upon a written request transmitted to the director within 30 calendar days of that action, be afforded an opportunity for a hearing in a manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. An applicant shall have the continuing duty to provide any assistance or information requested by the director, and to cooperate in any inquiry, investigation, or hearing conducted by the director.

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e. If any of the information required to be included in the disclosure statement changes, or if additional information should be added after the filing of the statement, the applicant shall provide that information to the director, in writing, within 30 calendar days of the change or addition.

f. Notwithstanding the provisions of paragraph (6) of subsection b. of this section, no individual shall be disqualified from registration or shall have registration revoked on the basis of any conviction disclosed if the individual has affirmatively demonstrated to the director clear and convincing evidence of the individual's rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

- (1) The nature and responsibility of the position which the convicted individual would hold;
- (2) The nature and seriousness of the offense;
- (3) The circumstances under which the offense occurred;
- (4) The date of the offense;
- (5) The age of the individual when the offense was committed;
- (6) Whether the offense was an isolated or repeated incident;
- (7) Any social conditions which may have contributed to the offense; and
- (8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have had the individual under their supervision.

C.56:8-142 Proof of commercial general liability insurance; requirements.

7. a. Every registered contractor who is engaged in home improvements shall secure, maintain and file with the director proof of a certificate of commercial general liability insurance in a minimum amount of \$500,000 per occurrence.

b. Every proof of a commercial general liability insurance policy required to be filed with the director shall provide that cancellation or nonrenewal of the policy shall not be effective unless and until at least 10 days' notice of intention to cancel or nonrenew has been received in writing by the director.

C.56:8-143 Refusal to issue, renew, revocation, suspension of registration; procedures.

8. a. The director may refuse to issue or renew, and may revoke, any registration for failure to comply with, or violation of, the provisions of this act or for any other good cause shown within the meaning and purpose of this act. A refusal or revocation shall not be made except upon reasonable notice to, and opportunity to be heard by, the applicant or registrant.

b. The director, in lieu of revoking a registration, may suspend the registration for a reasonable period of time, or assess a penalty in lieu of suspension, or both, and may issue a new registration, notwithstanding the revocation of a prior registration, if the applicant is found to have become entitled to the new registration.

C.56:8-144 Display of registration number; requirements.

9. a. All registrants shall prominently display their registration numbers within their places of business, in all advertisements distributed within this State, on business documents, contracts and correspondence with consumers of home improvement services in this State, and on all commercial vehicles registered in this State and leased or owned by registrants and used by registrants for the purpose of providing home improvements, except for vehicles leased or rented to customers of registrants by a registrant or any agent or representative thereof.

b. Any invoice, contract or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided pursuant to section 14 of this act.

C.56:8-145 Applicability of act of out-of-State contractors.

10. The provisions of this act shall apply to any person engaging in any of the activities regulated by this act in this State, including persons whose residence or principal place of business is located outside of this State.

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C.56:8-146 Violations, fourth degree crime.

11. a. It is an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) to violate any provision of this act.

b. In addition to any other penalty provided by law, a person who knowingly violates any of the provisions of this act is guilty of a crime of the fourth degree.

C.56:8-147 Supersedure of municipal ordinance, regulation.

12. a. This act shall supersede any municipal ordinance or regulation that provides for the licensing or registration of contractors or for the protection of homeowners by bonds or warranties required to be provided by contractors, exclusive of those required by water, sewer, utility, or land use ordinances or regulations.

b. No municipality shall issue a construction permit for any home improvement to any contractor who is not registered pursuant to the provisions of this act.

C.56:8-148 Municipal powers preserved.

13. This act shall not deny to any municipality the power to inspect a contractor's work or equipment, the work of a contractor who performs improvements to commercial property, or the power to regulate the standards and manners in which the contractor's work shall be done.

C.56:8-149 Public information campaign, toll free number.

14. a. The director shall establish and undertake a public information campaign to educate and inform contractors and the consumers of this State of the provisions of this act. The public information campaign shall include, but not be limited to, the preparation, printing and distribution of booklets, pamphlets or other written pertinent information.

b. The director shall provide a toll-free telephone number for consumers making inquiries regarding contractors.

C.56:8-150 Applicability of C.56:8-1 et seq.

15. Nothing in this act shall limit the application of P.L.1960, c.39 (C.56:8-1 et seq.), or any regulations promulgated thereunder, in regard to the registration or regulation of contractors.

C.56:8-151 Contracts, certain, required to be in writing; contents.

16. a. Every home improvement contract for a purchase price in excess of \$500 and all changes in the terms and conditions of the contract, shall be in writing. The contract shall be signed by all parties thereto, and shall clearly and accurately set forth in legible form and in understandable language all terms and conditions of the contract, including but not limited to:

- (1) The legal name, business address, and registration number of the contractor;
- (2) A copy of the certificate of commercial general liability insurance required of a contractor pursuant to section 7 of this act and the telephone number of the insurance company issuing the certificate; and
- (3) The total price or other consideration to be paid by the owner, including the finance charges.

b. A home improvement contract may be cancelled by a consumer for any reason at any time before midnight of the third business day after the consumer receives a copy of it. In order to cancel a contract the consumer shall notify the contractor of the cancellation in writing, by registered or certified mail, return receipt requested, or by personal delivery, to the address specified in the contract. All moneys paid pursuant to the cancelled contract shall be fully refunded within 30 days of receipt of the notice of cancellation. If the consumer has executed any credit or loan agreement through the contractor to pay all or part of the contract, the agreement or note shall be cancelled without penalty to the consumer and written notice of that cancellation shall be mailed to the consumer within 30 days of receipt of the notice of cancellation. The contract shall contain a conspicuous notice printed in at least 10-point bold-faced type as follows:

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"NOTICE TO CONSUMER

YOU MAY CANCEL THIS CONTRACT AT ANY TIME BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO CANCEL THIS CONTRACT, YOU MUST EITHER:

1. SEND A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OR
2. PERSONALLY DELIVER A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION TO:

(Name of Contractor)
(Address of Contractor)
(Phone Number of Contractor)

If you cancel this contract within the three-day period, you are entitled to a full refund of your money. Refunds must be made within 30 days of the contractor's receipt of the cancellation notice."

C.56:8-152 Rules, regulations.

17. The director, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations to effectuate the purposes of this act.

18. This act shall take effect on the 180th day following enactment.

Approved May 13, 2004.

ASSEMBLY, No. 3258

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED SEPTEMBER 23, 2004

Sponsored by:

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

Assemblyman NEIL M. COHEN

District 20 (Union)

Co-Sponsored by:

Assemblymen Diegnan, Scalera, Stack and Senator Sarlo

SYNOPSIS

Delays implementation of "Contractors' Registration Act."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/26/2004)

A3258 IMPREVEDUTO, COHEN

2

1 AN ACT concerning contractors engaged in home improvements and
 2 amending P.L.2004, c.16.

3
 4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 5 *of New Jersey:*

6
 7 1. Section 3 of P.L.2004, c.16 (C.56:8-138) is amended to read as
 8 follows:

9 3. a. **[No]** On or after December 31, 2005, no person shall offer
 10 to perform, or engage, or attempt to engage in the business of making
 11 or selling home improvements unless registered with the Division of
 12 Consumer Affairs in accordance with the provisions of this act.

13 b. Every contractor shall annually register with the director.
 14 Application for registration shall be on a form provided by the division
 15 and shall be accompanied by a reasonable fee, set by the director in an
 16 amount sufficient to defray the division's expenses incurred in
 17 administering and enforcing this act.

18 c. Every contractor required to register under this act shall file an
 19 amended registration within 20 days after any change in the
 20 information required to be included thereon. No fee shall be required
 21 for the filing of an amendment.

22 (cf:P.L.2004, c.16, s.3)

23
 24 2. Section 4 of P.L.2004, c.16 (C.56:8-139) is amended to read as
 25 follows:

26 4. Except for persons exempted pursuant to section 5 of this act,
 27 any person who advertises in print or puts out any sign or card or
 28 other device on or after **[the effective date of this act]** December 31,
 29 2005, which would indicate to the public that he is a contractor in
 30 New Jersey, or who causes his name or business name to be included
 31 in a classified advertisement or directory in New Jersey on or after
 32 **[the effective date of this act]** December 31, 2005, under a
 33 classification for home improvements covered by this act, is subject to
 34 the provisions of this act. This section shall not be construed to apply
 35 to simple residential alphabetical listings in standard telephone
 36 directories.

37 (cf: P.L.2004, c.16, s.4)

38
 39 3. Section 7 of P.L.2004, c.16 (C.56:8-142) is amended to read as
 40 follows:

41 7. a. **[Every]** On or after December 31, 2005, every registered
 42 contractor who is engaged in home improvements shall secure,
 43 maintain and file with the director proof of a certificate of commercial

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1 general liability insurance in a minimum amount of \$500,000 per
2 occurrence.

3 b. [Every proof of a commercial general liability insurance policy
4 required to be filed with the director shall provide that cancellation or
5 nonrenewal of the policy shall not be effective unless and until at least
6 10 days' notice of intention to cancel or nonrenew has been received
7 in writing by the director.] Every registered contractor engaged in
8 home improvements whose commercial general liability insurance
9 policy is cancelled or nonrenewed shall submit to the director a copy
10 of the certificate of commercial general liability insurance for a new or
11 replacement policy which meets the requirements of subsection a. of
12 this section before the former policy is no longer effective.
13 (cf: P.L.2004, c.16, s.7)
14

15 4. Section 16 of P.L.2004, c.16 (C.56:8-151) is amended to read
16 as follows:

17 16. a. [Every] On or after December 31, 2005, every home
18 improvement contract for a purchase price in excess of \$500, and all
19 changes in the terms and conditions of the contract, shall be in writing.
20 The contract shall be signed by all parties thereto, and shall clearly
21 and accurately set forth in legible form and in understandable language
22 all terms and conditions of the contract, including but not limited to:

23 (1) The legal name, business address, and registration number of
24 the contractor;

25 (2) A copy of the certificate of commercial general liability
26 insurance required of a contractor pursuant to section 7 of this act and
27 the telephone number of the insurance company issuing the certificate;
28 and

29 (3) The total price or other consideration to be paid by the owner,
30 including the finance charges.

31 b. [A] On or after December 31, 2005, a home improvement
32 contract may be cancelled by a consumer for any reason at any time
33 before midnight of the third business day after the consumer receives
34 a copy of it. In order to cancel a contract the consumer shall notify
35 the contractor of the cancellation in writing, by registered or certified
36 mail, return receipt requested, or by personal delivery, to the address
37 specified in the contract. All moneys paid pursuant to the cancelled
38 contract shall be fully refunded within 30 days of receipt of the notice
39 of cancellation. If the consumer has executed any credit or loan
40 agreement through the contractor to pay all or part of the contract, the
41 agreement or note shall be cancelled without penalty to the consumer
42 and written notice of that cancellation shall be mailed to the consumer
43 within 30 days of receipt of the notice of cancellation. The contract
44 shall contain a conspicuous notice printed in at least 10-point
45 bold-faced type as follows:

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1 "NOTICE TO CONSUMER

2 YOU MAY CANCEL THIS CONTRACT AT ANY TIME
 3 BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER
 4 RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO
 5 CANCEL THIS CONTRACT, YOU MUST EITHER:

6 1. SEND A SIGNED AND DATED WRITTEN NOTICE OF
 7 CANCELLATION BY REGISTERED OR CERTIFIED MAIL,
 8 RETURN RECEIPT REQUESTED; OR

9 2. PERSONALLY DELIVER A SIGNED AND DATED
 10 WRITTEN NOTICE OF CANCELLATION TO:

11 (Name of Contractor)

12 (Address of Contractor)

13 (Phone Number of Contractor)

14 If you cancel this contract within the three-day period, you are
 15 entitled to a full refund of your money. Refunds must be made
 16 within 30 days of the contractor's receipt of the cancellation notice."
 17 (cf: P.L.2004, c.16, s.16)

18

19 5. Section 18 of P.L.2004, c.16 is amended to read as follows:

20 18. This act shall take effect on [the 180th day following
 21 enactment] December 31, 2005.

22 (cf: P.L.2004, c.16, s.18)

23

24 6. This act shall take effect immediately and if enacted after
 25 November 9, 2004, shall be retroactive to November 9, 2004.

26

27

28 STATEMENT

29

30 This bill delays implementation of certain provisions of the
 31 "Contractors' Registration Act" until December 31, 2005. More
 32 specifically, the bill delays until that date: the requirement that
 33 contractors who are engaged in the making or selling of home
 34 improvements annually register with the Division of Consumer Affairs
 35 in the Department of Law and Public Safety; mandates concerning
 36 information to be contained in certain home improvement contracts;
 37 and provisions regarding cancellation of these contracts.

38 Further, the bill provides that only on or after December 31, 2005,
 39 is a registered contractor who is engaged in home improvements
 40 required to secure and maintain commercial general liability insurance
 41 in a minimum amount of \$500,000 per occurrence. The bill also
 42 removes the current provision of law stipulating that every proof of a
 43 commercial general liability insurance policy required to be filed with
 44 the Director of the Division of Consumer Affairs shall provide that
 45 cancellation or nonrenewal of the policy shall not be effective unless
 46 and until at least 10 days' notice of intention to cancel or renew has

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1 been received in writing by the director. Instead, the bill provides that
2 every registered contractor engaged in home improvements whose
3 commercial general liability insurance policy is cancelled or
4 nonrenewed shall submit to the Director of the Division of Consumer
5 Affairs a copy of the certificate of commercial general liability
6 insurance for a new or replacement policy as required by the act before
7 the former policy is no longer effective.

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RULE ADOPTION
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
HOME IMPROVEMENT CONTRACTOR REGISTRATION

11

Adopted Amendment: N.J.A.C. 13:45A-16.2

Adopted Recodification with Amendment: N.J.A.C. 13:45A-16.1 as 16.1A

Adopted New Rules: N.J.A.C. 13:45A-16.1 and 17

Proposed: August 2, 2004 at 36 N.J.R. 3506(a).

Adopted: October 7, 2004 by Reni Erdos, Director, Division of Consumer Affairs.

Filed: October 12, 2004 as R.2004 d.418, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30- 6.3).

Authority: N.J.S.A. 56:8-1 et seq., specifically N.J.S.A. 56:8-152.

Effective Date: November 1, 2004.

Operative Date: November 9, 2004.

Expiration Date: October 20, 2005.

SUBCHAPTER 16. HOME IMPROVEMENT PRACTICES

13:45A-16.1 Purpose and scope

- (a) The purpose of the rules in this subchapter is to implement the provisions of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., by providing procedures for the regulation and content of home improvement contracts and establishing standards to facilitate enforcement of the requirements of the Act.
- (b) The rules in this subchapter shall apply to all sellers as defined in N.J.A.C. 13:45A-16.1A and to all home improvement contractors as defined in N.J.A.C. 13:45A-17.2 whether or not they are exempt from the provisions of N.J.A.C. 13:45A-17.

13:45A-16.1A Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context indicates otherwise. "Home improvement" means the remodeling, altering, painting, repairing, renovating, restoring, moving, demolishing, or modernizing of residential or noncommercial property or the making of additions thereto, and includes, but is not limited to, the construction, installation, replacement, improvement, or repair of driveways, sidewalks, swimming pools, terraces, patios, landscaping, fences, porches, windows, doors, cabinets, kitchens, bathrooms, garages, basements and basement waterproofing, fire protection devices, security protection devices, central heating and air conditioning equipment, water softeners, heaters, and purifiers, solar heating or water systems, insulation installation, siding, wall-to-wall carpeting or attached or inlaid floor coverings, and other changes, repairs, or improvements made in or on, attached to or forming a part of the residential or noncommercial property, but does not include the construction of a new residence. The term extends to the conversion of existing commercial structures into residential or noncommercial property and includes any of the above activities performed under emergency conditions.

13:45A-16.2 Unlawful practices

- (a) Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., utilization by a seller of the following acts and practices involving the sale, attempted sale, advertisement or performance of home improvements shall be unlawful hereunder. 1.-11. (No change.) 12. Home improvement contract requirements—writing requirement: All home improvement contracts for a purchase price in excess of \$500.00, and all changes in the terms and conditions thereof shall be in writing. Home improvement contracts which are required by this subsection to be in writing, and all changes in the terms and conditions thereof, shall be signed by all parties thereto, and shall clearly and accurately set forth in legible form and in understandable language all terms and conditions of the contract, including, but not limited to, the following: i.-vi. (No change.) 13. (No change.)

SUBCHAPTER 17. HOME IMPROVEMENT CONTRACTOR REGISTRATION

13:45A-17.1 Purpose and scope

- (a) The purpose of the rules in this subchapter is to implement the provisions of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. as amended by P.L. 2004, c.16 (N.J.S.A. 56:8-136 et seq.) by providing procedures for the regulation of home improvement contractors and establishing standards to facilitate enforcement of the requirements of the Act. The rules establish the Division's registration procedures for those persons who fall under the requirements of this law.
- (b) These rules shall apply to home improvement contractors in this State unless otherwise exempt under N.J.A.C. 13:45A-17.4.

13:45A-17.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Advertise” means to communicate to the public by means of any print, electronic or any other media, including, but not limited to, newspapers, magazines, periodicals, journals, circulars, flyers, business cards, signs, radio, telephone, facsimile machine, television, computer or the Internet. “Advertise” includes having a person’s name in a classified advertisement or directory in this State under any classification of home improvement as defined in this section but does not include simple residential alphabetical listings in standard telephone directories.

“Director” means the Director of the Division of Consumer Affairs.

“Division” means the Division of Consumer Affairs in the Department of Law and Public Safety.

“Employee” means employee as defined in N.J.A.C. TREASURY-TAXATION35-7.1.

“Home improvement” means the remodeling, altering, painting, repairing, renovating, restoring, moving, demolishing, or modernizing of residential or noncommercial property or the making of additions thereto, and includes, but is not limited to, the construction, installation, replacement, improvement, or repair of driveways, sidewalks, swimming pools, terraces, patios, landscaping, fences, porches, windows, doors, cabinets, kitchens, bathrooms, garages, basements and basement waterproofing, fire protection devices, security protection devices, central heating and air conditioning equipment, water softeners, heaters, and purifiers, solar heating or water systems, insulation installation, siding, wall-to-wall carpeting or attached or inlaid floor coverings, and other changes, repairs, or improvements made in or on, attached to or forming a part of the residential or noncommercial property, but does not include the construction of a new residence. The term extends to the conversion of existing commercial structures into residential or noncommercial property and includes any of the above activities performed under emergency conditions.

“Home improvement contract” means an oral or written agreement for the performance of a home improvement between a contractor and an owner of residential or noncommercial property, or a contractor and a tenant or lessee of residential or noncommercial property, if the tenant or lessee is to be obligated for the payment of home improvements made in, to, or upon such property, and includes all agreements under which the contractor is to perform labor or render services for home improvements, or furnish materials in connection therewith.

“Home improvement contractor” or “contractor” means a person engaged in the business of making or selling home improvements and includes corporations, partnerships, associations and any other form of business organization or entity, and their officers, representatives, agents and employees.

“Residential or non-commercial property” means a structure used, in whole or in substantial part, as a home or place of residence by any natural person, whether or not a single or multi-unit structure, and that part of the lot or site on which it is situated and which is devoted to the residential use of the structure, and includes all appurtenant structures.

13:45A-17.3 Registration required

(a) Unless exempt under N.J.A.C. 13:45A-17.4:

1. No person shall engage in the business of making or selling home improvements in this State unless registered with the Division in accordance with this subchapter; and
 2. No person shall advertise indicating that the person is a contractor in this State unless the person is registered with the Division in accordance with this subchapter.
- (b) Unless exempt under N.J.A.C. 13:45A-17.4, contractors hired by other contractors to make or sell any home improvements shall register with the Division in accordance with this subchapter.
- (c) Officers and employees of a registered home improvement contractor shall not be required to register separately from the registered business entity provided that the officers and employees sell or make home improvements solely within their respective scopes of performance for that registered business entity.
- (d) Officers and employees of a home improvement contractor that is exempt under N.J.A.C. 13:45A-17.4 shall not be required to register provided that the officers and employees sell or make home improvements solely within their respective scopes of performance for that exempt business entity.

13:45A-17.4 Exemptions

(a) The following persons are exempt from the registration requirements of this subchapter:

1. Any person registered pursuant to “the New Home Warranty and Builders’ Registration Act,” P.L. 1977, c.467 (N.J.S.A. 46:3B-1 et seq.), but only in conjunction with the building of a new home as defined in N.J.A.C. 5:25- 1.3;
2. Any person performing a home improvement upon a residential or non-commercial property owned by that person, or by the person’s family;
3. Any person performing a home improvement upon a residential or non-commercial property owned by a bona fide charity or other non-profit organization;
4. Any person regulated by the State as an architect, professional engineer, landscape architect, land surveyor, electrical contractor, master plumber, locksmith, burglar alarm business, fire alarm business, or any other person in any other related profession requiring registration, certification, or licensure by the State, who is acting within the scope of practice of that profession;
5. Any person employed by a community association or cooperative corporation who is making home improvements within the person’s scope of employment at the residential or non-commercial property that is owned or leased by the community association or cooperative corporation;

6. Any public utility as defined under N.J.S.A. 48:2-13;
7. Any person licensed as a home financing agency, a home repair contractor or a home repair salesman pursuant to N.J.S.A. 17:16C-77, provided that the person is acting within the scope of such license; and
8. Any home improvement retailer with a net worth of more than \$50,000,000 or any employee of such home improvement retailer who is making or selling such home improvements within the person's scope of employment of the home improvement retailer.

13:45A-17.5 Initial and renewal applications

- (a) Each home improvement contractor required to be registered under this subchapter shall initially register with the Division by submitting the following on forms provided by the Director:
 1. The name and street address of each place of business of the home improvement contractor and any fictitious or trade name to be used by the home improvement contractor;
 2. The type of business organization;
 3. The name, residence and business street address of each officer, director, principal and person with an ownership interest of 10 percent or more in the home improvement contractor business, including the percentage of ownership held;
 4. The name and number of any professional or occupational license, certificate or registration issued by this State or any other governmental entity to any officer, director, principal or person with an ownership interest of 10 percent or more in the home improvement contractor business;
 5. Whether the entity, any officer, director, principal or person with an ownership interest of 10 percent or more in the home improvement contractor business has been adjudged liable in an administrative or civil action involving any of the situations in (a)5i through vi below. For the purposes of this paragraph, a judgment of liability in an administrative or civil action shall include, but not be limited to, any finding or admission that the entity, officer, director, principal or person with an ownership interest of 10 percent or more in the home improvement contractor business engaged in an unlawful practice or practices related to any of the named situations in (a)5i through vi below regardless of whether that finding was made in the context of an injunction, a proceeding resulting in the denial, suspension or revocation of a license, certification or registration, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any State or Federal agency. As described above, this paragraph covers the following situations:
 - i. Obtained any registration, certification or license by fraud, deception or misrepresentation;
 - ii. Engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
 - iii. Engaged in gross negligence, gross malpractice or gross incompetence;
 - iv. Engaged in acts of negligence, malpractice or incompetence involving selling or making a home improvement; and
 - v. Engaged in professional or occupational misconduct;
 6. Whether the entity, any officer, director, principal or person with an ownership interest of 10 percent or more in the home improvement contractor business has been convicted of any crime involving moral turpitude or any crime relating adversely to selling or making home improvements. For the purpose of this paragraph, a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
 7. Whether the entity, any officer, director, principal or person with an ownership interest of 10 percent or more in the home improvement contractor business has had their authority to engage in the activity regulated by the Director revoked or suspended by any other state, agency or authority;
 8. Whether the entity, any officer, director, principal or person with an ownership interest of 10 percent or more in the home improvement contractor business has violated or failed to comply with the provisions of any act, regulation or order administered or issued by the Director;
 9. Whether the entity, any officer, director, principal or person with an ownership interest of 10 percent or more in the home improvement contractor business believes they are unable to meet the requirements of the Contractors' Registration Act, N.J.S.A. 56:8-136 et seq. or rule in this subchapter for medical or any other good cause to the detriment of the public's health, safety and welfare; and
 10. The name and street address of an agent in the State of New Jersey for service of process.
- (b) In addition to the information required in (a) above, the applicant shall include the following with the initial application:
 1. A properly completed disclosure statement that complies with the requirements of N.J.A.C. 13:45A-17.6;
 2. Proof of the home improvement contractor's commercial general liability insurance policy in a minimum amount of \$500,000 per occurrence that complies with the requirements of N.J.A.C. 13:45A-17.12; and
 3. The initial registration fee in the amount specified in N.J.A.C. 13:45A-17.14.
- (c) A registered home improvement contractor shall include the following with the annual renewal application:
 1. A completed renewal application that will be on a form specified by the Director;
 2. Proof of the home improvement contractor's commercial general liability insurance policy in a minimum amount of \$500,000 per occurrence that complies with the requirements of N.J.A.C. 13:45A-17.12;
 3. The renewal registration fee in the amount specified in N.J.A.C. 13:45A-17.14; and
 4. If the completed renewal application is received by the Division after the renewal application's due date as specified on the renewal application, the late fee in the amount specified in N.J.A.C. 13:45A-17.14.

13:45A-17.6 Disclosure statement

- (a) Each applicant shall file a disclosure statement with the Director stating whether it or any of its officers, directors, principals or persons with an ownership interest of 10 percent or more in the home improvement contractor business has been convicted of any violations of the following provisions of the “New Jersey Code of Criminal Justice,” Title 2C of the New Jersey Statutes, or the equivalent under the laws of any other jurisdiction:
1. Any crime of the first degree;
 2. Any crime which is a second or third degree crime and is a violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes; or
 3. Any other crime which is a violation of N.J.S.A. 2C:5-1 or 2C:5-2 (conspiracy), N.J.S.A. 2C:11-2 (criminal homicide), N.J.S.A. 2C:11-3 (murder), N.J.S.A. 2C:11-4 (manslaughter), N.J.S.A. 2C:12-1 (assault), N.J.S.A. 2C:12-3 (terroristic threats), N.J.S.A. 2C:13-1 (kidnapping), N.J.S.A. 2C:14-2 (sexual assault), subsection a. or b. of N.J.S.A. 2C:17-1 (arson and related offenses), subsection a. or b. of N.J.S.A. 2C:17-2 (causing or risking widespread injury or damage), N.J.S.A. 2C:15-1 (robbery), N.J.S.A. 2C:18-2 (burglary), N.J.S.A. 2C:20-4 (theft by deception), N.J.S.A. 2C:20-5 (theft by extortion), N.J.S.A. 2C:20-7 (receiving stolen property), N.J.S.A. 2C:20-9 (theft by failure to make required disposition of property received), N.J.S.A. 2C:21-2 (criminal simulation), N.J.S.A. 2C:21-2.1 (fraud relating to driver’s license or other document issued by governmental agency to verify identity or age; simulation), N.J.S.A. 2C:21-2.3 (fraud relating to motor vehicle insurance identification card; production or sale), N.J.S.A. 2C:21-3 (frauds relating to public records and recordable instruments), N.J.S.A. 2C:21-4 (falsifying or tampering with records), N.J.S.A. 2C:21-6 (fraud relating to credit cards), N.J.S.A. 2C:21-7 (deceptive business practices), N.J.S.A. 2C:21-12 (defrauding secured creditors), N.J.S.A. 2C:21-14 (receiving deposits in a failing financial institution), N.J.S.A. 2C:21-15 (misapplication of entrusted property and property of government of financial institution), N.J.S.A. 2C:21-19 (wrongful credit practices and related offenses), N.J.S.A. 2C:27-2 (bribery in official and political matters), N.J.S.A. 2C:27-3 (threats and other improper influence in official and political matters), N.J.S.A. 2C:27-5 (retaliation for past official action), N.J.S.A. 2C:27-9 (public servant transacting business with certain persons), N.J.S.A. 2C:27-10 (acceptance or receipt of unlawful benefit by public servant for official behavior), N.J.S.A. 2C:27-11 (offer of unlawful benefit by public servant for official behavior), N.J.S.A. 2C:28-1 (perjury), N.J.S.A. 2C:28-2 (false swearing), N.J.S.A. 2C:28-3 (unsworn falsification to authorities), N.J.S.A. 2C:28-4 (false reports to law enforcement officials), N.J.S.A. 2C:28-5 (tampering with witnesses and informants; retaliation against them), N.J.S.A. 2C:28-6 (tampering with or fabricating physical evidence), N.J.S.A. 2C:28-7 (tampering with public records or information), N.J.S.A. 2C:28-8 (impersonating a public servant or law enforcement officer), N.J.S.A. 2C:30-2 (official misconduct), N.J.S.A. 2C:30-3 (speculating or wagering on official action or information), N.J.S.A. 2C:35-5 (manufacturing, distributing or dispensing a controlled dangerous substance), N.J.S.A. 2C:35-10 (possession, use or being under the influence or failure to make lawful disposition of a controlled dangerous substance), N.J.S.A. 2C:37-2 (promoting gambling), N.J.S.A. 2C:37-3 (possession of gambling records), or N.J.S.A. 2C:37-4 (maintenance of a gambling resort).

13:45A-17.7 Duty to update information

- (a) Whenever any information required to be included in the application changes, or if additional information should be added after the filing of the application, the applicant or registered home improvement contractor, as appropriate, shall provide that information to the Director, in writing, within 20 calendar days of the change or addition. Whenever any other information filed with the Director pursuant to the Contractors’ Registration Act, N.J.S.A. 56:8-136 et seq., or this subchapter has changed, the applicant or registered home improvement contractor, as appropriate, shall provide that information to the Director, in writing, within 20 calendar days of the change or addition.
- (b) Whenever any information required to be included in the disclosure statement changes, or if additional information should be added after the filing of the statement, the applicant or registered home improvement contractor, as appropriate, shall provide that information to the Director, in writing, within 30 calendar days of the change or addition.

13:45A-17.8 Requirement to cooperate

Home improvement contractor applicants seeking to register with the Division and registered home improvement contractors shall have the continuing duty to provide any assistance or information; to produce any records requested by the Director; and to cooperate in any inquiry, investigation or hearing conducted by the Director.

13:45A-17.9 Refusal to issue, suspension or revocation of registration; hearing; other sanctions

- (a) The Director may refuse to issue or renew, or may suspend or revoke any registration issued by the Division upon proof that an applicant or registrant or any of its officers, directors, principals or persons with an ownership interest of 10 percent or more in the home improvement contractor business:
1. Has obtained any registration, certification or license by fraud, deception or misrepresentation;
 2. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
 3. Has engaged in gross negligence, gross malpractice or gross incompetence;
 4. Has engaged in repeated acts of negligence, malpractice or incompetence involving selling or making a home improvement;
 5. Has engaged in professional or occupational misconduct;
 6. Has been adjudged liable in an administrative or civil action involving any finding or admission which would provide a

basis for discipline pursuant to (a)1 through 5 above regardless of whether that finding was made in the context of an injunction, a proceeding resulting in the denial, suspension or revocation of a license, certification or registration, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any State or Federal agency;

7. Has been convicted of any crime involving moral turpitude or any crime relating adversely to selling or making home improvements. For the purpose of this paragraph, a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
 8. Has had his or her authority to engage in the activity regulated by the Director revoked or suspended by any other state, agency or authority for reasons consistent with this section;
 9. Has violated or failed to comply with N.J.S.A. 56:8-136 et seq. or any provision of this subchapter or the provisions of any act, regulation or order administered or issued by the Director; or
 10. Is unable to meet the requirements of the Contractors' Registration Act, N.J.S.A. 56:8-136 et seq., or rule in this subchapter for medical or any other good cause to the detriment of the public's health, safety and welfare.
- (b) Information contained in the application required pursuant to N.J.A.C. 13:45A-17.5 and information contained in the disclosure statement required to be filed pursuant to N.J.A.C. 13:45A-17.6 may be used by the Director as grounds for denying, suspending or revoking a registration. An applicant whose registration is denied or a home improvement contractor whose registration is suspended or revoked based upon information contained in the application or disclosure statement or any amendments thereto shall be afforded an opportunity to be heard pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, upon written request to the Director within 30 days of the notice of denial, suspension or revocation which shall contain the basis for such action. In any matter in which the provisions of the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., apply, the Director shall comply with the requirements of that Act.
- (c) Except as provided in (b) above, prior to refusing to issue or renew or suspending or revoking a home improvement contractor registration or assessing a penalty, the Director shall notify the applicant or registrant and provide an opportunity to be heard.
- (d) In addition to assessing a monetary penalty for any violation of this subchapter, the Director may revoke a registration or suspend the registration for a period of time dependent upon the seriousness of the violation.
- (e) Nothing contained in this subchapter shall limit the Director from imposing any additional fees, fines, penalties, restitution or any other sanctions as permitted under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.

13:45A-17.10 Reinstatement of suspended registration

A registration that is suspended by the Director may be reinstated upon the contractor satisfying the conditions for reinstatement as determined by the Director and paying all outstanding fees, fines, penalties and restitution, including the payment of the reinstatement fee specified in N.J.A.C. 13:45A-17.14.

13:45A-17.11 Ownership and use of registration number; replacement and duplicate certificates

- (a) Each registration number and certificate containing such registration number issued by the Director to a home improvement contractor remain the property of the State of New Jersey. If the Director suspends, fails to renew, or revokes a registration, the home improvement contractor shall immediately return all registration certificates to the Director and shall remove the registration number from all vehicles, advertising and anything else on which the registration number is displayed or otherwise communicated.
- (b) The Director shall issue a replacement certificate upon payment of the replacement certificate fee as set forth in N.J.A.C. 13:45A-17.14 and receipt by the Director of an affidavit or certified statement attesting that the original was either lost, destroyed, mutilated or is otherwise no longer in the custody of and cannot be recovered by the certificate holder.
- (c) The Director shall issue a duplicate certificate to a registered contractor upon payment of the duplicate certificate fee as set forth in N.J.A.C. 13:45A-17.14 and receipt by the Director of an affidavit or certified statement that the registered contractor has multiple places of business in which the contractor must display a certificate. A registered contractor may not possess more registration certificates than the number of places of business utilized by the contractor.
- (d) A registered home improvement contractor shall prominently display:
 1. The original registration certificate or a duplicate registration certificate issued by the Division at each place of business; and
 2. The contractor's registration number on all advertisements distributed within this State, on business documents, contracts and correspondence with consumers of home improvement services in this State, and on all commercial vehicles registered in this State and leased or owned by a registrant and used by the registrant for the purpose of providing home improvements, except for vehicles leased or rented by a registrant to a customer of that registrant.
- (e) Any invoice, contract or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided by the Division pursuant to (b) of N.J.S.A. 56:8-149b.

13:45A-17.12 Mandatory commercial general liability insurance

(a) Every registered home improvement contractor shall secure and maintain in full force and effect during the entire term of registration a commercial general liability insurance policy and shall file with the Director proof that such insurance is in full force and effect.

- (b) The insurance policy required to be filed with the Director shall be a commercial general liability insurance policy, occurrence form, and shall provide a minimum coverage in the amount of \$500,000 per occurrence and that cancellation or nonrenewal of the policy by either the contractor or the insurer shall not be effective unless and until at least 10 business days' notice of intention to cancel or not to renew has been received in writing by the Director.
- (c) The proof of insurance required by (a) above shall be a certificate provided by the insurer containing the insured's name, business street address, policy number, term of the insurance, and information assuring that the policy conforms with (b) above.
- (d) A home improvement contractor who either does not renew or who otherwise changes the contractor's commercial general liability policy shall submit a copy of the certificate of commercial general liability insurance for the new policy at least 10 business days before the former policy is no longer effective.

13:45A-17.13 Requirements of certain home improvement contracts

In addition to the requirements of a home improvement contract pursuant to N.J.A.C. 13:45A-16.2, every home improvement contract in which a person required to be registered as a home improvement contractor is a party shall comply with the provisions of N.J.S.A. 56:8-151.

13:45A-17.14 Fees

- (a) The Division shall charge the following non-refundable home improvement contractor registration fees:
 - 1. Initial registration fee \$90.00;
 - 2. Renewal registration fee \$75.00;
 - 3. Late fee \$25.00;
 - 4. Reinstatement fee \$50.00;
 - 5. Replacement or duplicate certificate fee \$20.00.